



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 26, 1993

Mr. Jeff Hankins
Legal Assistant
Program Division, Legal Services, 110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR93-533

Dear Mr. Hankins:

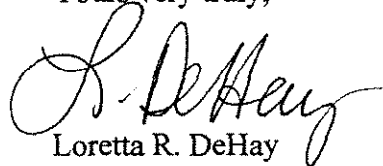
The Texas Department of Insurance (the "department") received a request for information concerning two insurance companies, specifically First Life Insurance Company and Knickerbocker Life Insurance Company, and requested a decision of this office pursuant to section 7 of the Texas Open Records Act (the "act"), V.T.C.S. article 6252-17a. Your request was partially disposed of in Open Records Letter Ruling OR93-348 (1993), in which this office addressed the applicability of sections 3(a)(1), 3(a)(3), 3(a)(7), 3(a)(11), and 3(a)(12) of the act. Because the decision in *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ) required reexamination of the section 3(a)(11) exception, we allowed you an additional 15 days to submit arguments in accordance with the *Gilbreath* decision. We now consider the additional arguments you have submitted for withholding the requested documents under section 3(a)(11) of the act. We have assigned your request ID# 21015.

Section 3(a)(11) excepts "inter-agency or intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993) (copy enclosed), this office reexamined the section 3(a)(11) exception in light of the *Gilbreath* decision and held that section 3(a)(11) excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body at issue. An agency's policymaking functions, however, do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. *Id.* at 5-6. In addition, section 3(a)(11) does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Id.* at 4-5. While the documents you have submitted for our review pertain to the policy functions of the department, some of the information contained in these documents is purely factual. We have marked those portions of the documents that may be withheld from required public

disclosure under section 3(a)(11). The remainder of the requested information must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/GCK/jcc

Enclosures: Open Records Decision No. 615
Marked documents

Ref.: ID# 21015

cc: Mr. John E. Dees, Jr.
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(w/o enclosures)